

**AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 9TH DAY OF APRIL 2013, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.**

**A. CALL TO ORDER**

**B. ROLL CALL**

John J. McGlennon, Chairman, Roberts District  
Mary K. Jones, Vice Chairman, Berkeley District  
James G. Kennedy, Stonehouse District  
James O. Icenhour, Jr., Jamestown District  
M. Anderson Bradshaw, Powhatan District

Robert C. Middaugh, County Administrator  
Lola R. Perkins, Assistant County Attorney

**C. MOMENT OF SILENCE**

**D. PLEDGE OF ALLEGIANCE** – Cameron Garrett, a freshman at Warhill High School, led the Board and citizens in the Pledge of Alliance.

**E. PRESENTATIONS - None**

**F. PUBLIC COMMENT**

1. Mr. Grover Lewis, 4305 Oak Tree Lane, addressed the Board in regard to the road surfaces in Powhatan Secondary. He stated that he was happy to report that the roads have been repaired after the County intervened.

2. Mr. Randy O'Neill, 109 Sheffield Road, addressed the Board in regard to the lack of promotion of County business at County parks and fields. He also stated that there needs to be more fitness equipment readily available to children at County parks.

3. Ms. Caroline Baker, 6290 Old Mooretown Road, representing the Community Action Agency (CAA), thanked the Board for appointing new members in the last few months. She thanked the Board for keeping the CAA in the budget, allowing the CAA to help citizens in the community.

4. Ms. Linda Wallace-Cody, Friendship Lane, representing the CAA, thanked the Board for its continued support of the Agency. She stated that important programs are able to continue, due to the Board's support.

5. Ms. Betty Walker, 101 Locust Place, addressed the Board in regard to 2nd Amendment rights and the duties and responsibilities of the Office of the Sheriff.

6. Mr. William Moyer, 268 Peach Street, addressed the Board as a representative of the James City County Citizens Coalition (J4C) in regard to the extension of the bond authority. He urged the Board to approve the resolution and to continue the greenspace efforts.

7. Mr. Joseph Swanenburg, 3026 The Point Drive, addressed the Board stating that 51 percent of the land in the County is controlled by one governmental agency or another. He stated that the economy is different than 2007 and urged the Board to not approve the resolution to extend the bond authority.

8. Ms. Sue Sadler, 9929 Mountain Berry Court, addressed the Board asking why the extension of the bond authority has not been put on the ballot for the voters to decide. She stated that the County owns enough land and the voters should not have to pay for these Purchase of Development Rights (PDR) and greenspace programs.

9. Ms. Marjorie Ponziani, 4852 Bristol Circle, addressed the Board in opposition to extending the bond authority. She stated that the County already owns enough land in the County.

10. Mr. Chris Henderson, 101 Keystone, addressed the Board requesting that the extension of the bond authority be deferred until it can be advertised and subject to a public hearing. He stated that the Board should give the voters the opportunity to address the matter and give their opinion.

11. Ms. Landra Skelly, 6572 Wiltshire Road, addressed the Board in regard to greenspace and open space programs and in opposition to the extension of the bond authority.

12. Mr. Keith Sadler, 9929 Mountain Berry Court, addressed the Board in regard to Sheriff Deeds' statement being reinstated to the County's website and in support of the 2nd Amendment.

13. Mr. Ed Oyer, 139 Indian Circle, addressed the Board recognizing the loss of Mr. Bill Beck and Mr. Ray Basley.

**G. BOARD REQUESTS AND DIRECTIVES - None**

**H. CONSENT CALENDAR**

Mr. Bradshaw made a motion to approve the Consent Calendar.

On a roll call vote, the vote was: AYE: Mr. Icenhour, Mr. Bradshaw, Mr. Kennedy, Ms. Jones, Mr. McGlennon (5). NAY: (0).

**1. Minutes –**

a. March 26, 2013, Regular Meeting

## **I. PUBLIC HEARINGS**

### **1. FY 2014 Budget – Joint Hearing with James City Service Authority (JCSA)**

Mr. McGlennon stated that the James City Service Authority (JCSA) would be called to order at this time for the purpose of the joint public hearing on the FY 2014 Budget.

Ms. Sue Mellen, Assistant Director of Financial and Management Services, addressed the Board giving a summary of the proposed FY 2014 County Budget. She stated that no action is required by the Board this evening. She stated that the Board is scheduled to have Budget Work Sessions on April 17 and 23 at 4 p.m.

As there were no Board questions for staff, Mr. McGlennon opened the Public Hearing.

1. Ms. Sue Sadler, 9929 Mountain Berry Court, addressed the Board asking where the list of memberships and fees is that shows where the money is going. She also asked why there is an increase in the Planning budget and why another planner is needed for the upcoming Comprehensive Plan review.

2. Mr. Chris Henderson, 101 Keystone, addressed the Board stating that the County is projecting no increase in debt, yet the Board is deciding tonight on extending the bond authority. He asked what impact the bond borrowing will have on the budget.

3. Mr. Ed Oyer, 139 Indian Circle, addressed the Board stating that the debt load and debt service must be reduced. He stated that the real estate assessments have gone down and should be looked at.

As there were no more public comments, Mr. McGlennon closed the Public Hearing.

The Board chose to hold any discussion of the Budget until its next Budget Work Session.

### **2. Case No. SUP 0001-2013. Carolina Furniture**

Mr. Jose Ribeiro, Planner II, addressed the Board giving a summary of the staff report included in the Agenda Packet.

Mr. Icenhour stated that the building is located in an area with a Neighborhood Commercial designation under the Comprehensive Plan. He stated that the Neighborhood Commercial designation has a limitation of 40,000 square feet. He questioned what the total square footage would be of the two proposed buildings once the parcels were combined.

Mr. Ribeiro stated that when the parcels and the proposed buildings are combined, they will be in excess of 40,000 square feet.

Mr. Icenhour asked what the total square footage will be.

Mr. Ribeiro stated that according to the site plan, the square footage will be approximately 50,000 square feet.

Mr. Icenhour asked how an Administrative Approval was made for the parcel in the back that would take the square footage over 50,000 square feet.

Mr. Ribeiro stated that the initial plan was subject to a Department of Conservation and Recreation (DCR) review and approval.

Mr. Icenhour stated that there is a disconnection between what is allowed under the Comprehensive Plan and what the DCR can administratively approve. He stated that he understands that the parcels and buildings already existed and this case is just combining them, but this situation is something that needs to be considered.

Mr. Ribeiro stated that the parcels are being combined to resolve a non-conforming issue. He stated that staff feels the architecture of the building makes the buildings appear not as large as it actually is.

Mr. Icenhour asked Mr. Allen Murphy, Director of Development Management, if he had any input on how this situation occurred.

Mr. Murphy stated that the square footage thresholds for the commercial designations in the Comprehensive Plan are suggestive and it did not recognize preexisting zoned commercial buildings. He stated that the parcel in the back is zoned for commercial use, is a by-right use, and was approved administratively.

As there were no more Board questions for staff, Mr. McGlennon opened the Public Hearing.

As no one wished to speak to the case, Mr. McGlennon closed the Public Hearing.

Ms. Jones made a motion to approve the revised resolution provided to the Board.

On a roll call vote, the vote was: AYE: Mr. Icenhour, Mr. Bradshaw, Mr. Kennedy, Ms. Jones, Mr. McGlennon (5). NAY: (0).

## **RESOLUTION**

### **CASE NO. SUP-0001-2013. CAROLINA FURNITURE**

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a Special Use Permit (the "SUP") process; and

WHEREAS, Mr. Joseph H. Steele, II, has applied for an SUP to allow for the construction of an up to 5,000-square-foot retail addition to an existing building and other minor improvements; and

WHEREAS, if approved, this SUP application will bring the existing furniture showroom/retail structures into conformance with the current commercial SUP regulations; and

WHEREAS, the proposed development is shown on a plan titled "Master Plan Carolina Furniture" and dated January 11, 2013, and revised March 21, 2103; and

WHEREAS, the properties are located at 5431 and 5425 Richmond Road and can be further identified as James City County Real Estate Tax Map Parcel Nos. 3330100016 and 3330100019; and

WHEREAS, the Planning Commission following its public hearing on February 6, 2013, voted 7-0 to recommend approval of this application; and

WHEREAS, the Planning Commission, following its public hearing on April 3, 2013, voted 3-0-1 to recommend approval of this application; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds this use to be consistent with the 2009 Comprehensive Plan Use Map designation for this site.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-0001-2013 as described herein with the following conditions:

1. Master Plan. This SUP shall be valid for the proposed development approved as part of James City County Site Plan SP-0146-2006, existing buildings and accessory structures, the addition of a showroom up to 5,000 square feet and other minor improvements on properties located at 5425 and 5431 Richmond Road and further identified as James City County Real Estate Tax Map Parcel Nos. 3330100019 and 3330100016 respectively (together, the "Properties"). Development of the Properties shall be generally in accordance with the Master Plan entitled "Master Plan Carolina Furniture" prepared by Bowman Consulting dated January 11, 2013 (the "Master Plan") and revised March 21, 2013, with such minor changes as the Planning Director, or his designee, determines does not change the basic concept or character of the development. In the event the Planning Director finds that the proposed change alters the basic concept or character of the development the applicant may appeal the Planning Director's determination to the Development Review Committee.
2. Boundary Line Extinguishment. Prior to final site plan approval, a plat showing the extinguishment of the common property line between the Properties located at 5425 and 5431 Richmond Road must be submitted and approved by the County.
3. Shared Parking Agreement. Prior to final site plan approval, a shared parking agreement between the Carolina Furniture property and adjacent parcel identified as James City County Real Estate Tax Map Parcel No. 3330100017 (the "Moose Lodge") must be submitted for the review and approval by the Planning Director or his designee.
4. Architectural Elevations. Prior to final site plan approval, the Planning Director or his designee shall review and approve a final building elevation and architectural design, including colors and materials for the proposed addition. The proposed addition shall be reasonably consistent, as determined by the Planning Director or his designee, with the architectural elevations date stamped March 12, 2013, and kept in the application file.
5. Water Conservation Agreement. The Owner(s) shall be responsible for developing and enforcing water conservation standards for the Properties to be submitted and approved by the James City Service Authority prior to final site plan approval. The standards shall include, but shall not be limited to such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought resistant native and other adopted low water use landscaping materials and warm season turf where appropriate, and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.
6. Lighting. All new exterior light fixtures, including building lighting, on the Properties shall have recessed fixtures with no lens, bulb, or globe extending below the casing. In addition, a lighting plan shall be submitted to and approved by the Planning Director or his designee which indicates no glare outside the property lines unless otherwise approved by the Planning Director or his designee. All light poles shall not exceed 20 feet in height unless otherwise approved by the Planning Director or his designee prior to final site plan

approval. "Glare" shall be defined as more than 0.1 foot-candle at the boundary of the Properties or any direct view of the lighting source from the adjoining properties.

7. Signs. All new signs and new sign locations shall be reviewed and approved by the Planning Director or his designee prior to final site plan approval.
8. Commencement of Construction. If construction has not commenced on this project within 24 months from the issuance of an SUP, the SUP shall become void.
9. Severance Clause. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

3. Case No. ZO-0004-2013. Pawn Shops and Payday/Title Loan Establishments

Mr. Jason Purse, Zoning Administrator, addressed the Board giving a summary of the staff report included in the Agenda Packet.

As there were no Board questions for staff, Mr. McGlennon opened the Public Hearing.

1. Mr. Richard Bradshaw, County Commissioner of the Revenue, addressed the Board giving a summary of the requirements necessary for a pawn broker to obtain a business license in the County.

2. Mr. Chris Henderson, 101 Keystone, addressed the Board stating that relegating these businesses to M1 or M2 locations effectively keeps these businesses from desiring to locate in the County.

3. Ms. Landra Skelly, 6852 Wiltshire Road, addressed the Board in favor of allowing these businesses to locate in the County.

4. Mr. Harry Izland, 112 Pierce's Court, addressed the Board stating that regulations need to be put into place on interest rates allowed and regulations to address stolen merchandise.

As no one else wished to speak, Mr. McGlennon closed the Public Hearing.

Mr. Icenhour stated that he wanted to clarify the role of the Board in this case regarding these types of establishments. He stated that his understanding is that the Board does not have the right to ban these establishments from coming into the County.

Ms. Lola Perkins, Assistant County Attorney, stated that was correct.

Mr. Icenhour stated similarly, the Board does not have the right to regulate interest rates or business practices.

Ms. Perkins stated that was correct.

Mr. Icenhour stated that the role of the Board is to make a land use decision. He stated staff has determined that under the Comprehensive Plan, the M1 and M2 designated areas to be the most suitable places for these businesses to be located.

Ms. Perkins stated that was correct.

Mr. Bradshaw stated that if the Board did not adopt this ordinance, these businesses could go into any zoned area.

Ms. Perkins stated that yes, they could go into any zoned area where the business would be in accordance with the zoned use. She stated that currently the County ordinances do not speak to these types of businesses specifically, so staff would have to look to areas with similarly situated businesses.

Mr. McGlennon stated that zoning areas allowing banks or other kinds of service areas would be areas where these businesses would have to be allowed.

Ms. Perkins stated that was correct.

Mr. Icenhour made a motion to approve the ordinance included in the Agenda Packet.

On a roll call vote, the vote was: AYE: Mr. Icenhour, Mr. Bradshaw, Mr. Kennedy, Ms. Jones, Mr. McGlennon (5). NAY: (0).

4. Case No. Case No. ZO-0001-2013. Professional Landscape Assessment Team (PLAT) Amendments to Chapter 24, Division 4, Landscaping and Creation of an Enhanced Landscaping Policy. Case Nos. ZO-0002-2013 and ZO-0003-2013. Amendments to Chapter 24, Division 16, Public Lands District and Chapter 24, Division 17, Economic Opportunity District

Mr. Scott Whyte, Landscape Planner, addressed the Board giving a summary of the staff report included in the Agenda Packet.

Mr. McGlennon stated that he understands the purpose of the Landscape Policy to be the screening of development and the preservation of the natural environment. He stated that it is a means of minimizing the environmental impacts of development. He questioned if this would still be maintained under the new policy.

Mr. Whyte stated that was correct. He stated that the changes and flexibility to the ordinances are designed to address site constraints and differences in topography of different sites.

Mr. Kennedy stated that the ordinance addresses some concerns from the past about over-planting, due to requirements.

Mr. Whyte stated that was correct. He stated that the policy allows for the substitution of quality over quantity.

Mr. Kennedy asked Mr. Whyte to name the members of the Professional Landscape Assessment Team (PLAT), so that the Board could recognize and thank them for their efforts.

Mr. Whyte stated that the PLAT members were Mr. Chris Basic, Mr. James Peters, Ms. Peggy Krapf, Mr. Gordon Chappell, and Mr. Phillip Merritt.

Mr. Bradshaw asked if this was the first time that there has been the option to use public artwork in lieu of plantings for landscaping.

Mr. Whyte stated yes. He stated that in the past there have been instances of ornamental fencing allowed in place of plantings in legislative cases.

As there were no more Board questions for staff, Mr. McGlennon opened the Public Hearing.

As no one wished to speak to the case, Mr. McGlennon closed the Public Hearing.

Mr. Kennedy made a motion to approve the ordinances and resolution as amended and provided to the Board this evening.

On a roll call vote, the vote was: AYE: Mr. Icenhour, Mr. Bradshaw, Mr. Kennedy, Ms. Jones, Mr. McGlennon (5). NAY: (0).

**J. BOARD CONSIDERATION**

1. Approval of Proposed Financing for Virginia United Methodist Homes of Williamsburg, Inc., through the James City County Economic Development Authority (EDA)

Mr. Russell Seymour, Director of Economic Development, addressed the Board giving a summary of the memorandum included in the Agenda Packet.

Ms. Jones asked what the overall bonding authority is for the EDA.

Mr. Seymour stated that the limit for bank-qualified is \$10 million.

Mr. Middaugh stated that as far as a cap goes, he does not believe that there is a statutory maximum.

Ms. Jones stated it is case-by-case, meaning it depends on how many other cases have received bonds.

Mr. Middaugh stated they could continue to issue more.

Ms. Jones said that the number of bonds already issued would be taken into consideration.

Mr. Middaugh stated that they could, but they do not need to. He said, as Mr. Seymour stated, there is no liability to the EDA or the County, so there is no reason to impose that limit. He stated that it is a function of the Noteholder whether or not it is a weak issuance.

Ms. Jones asked that if there are several cases where bonds have been issued and those loan holders have failed to pay back their bonds. She stated that at some point it is going to reflect back on the locality and the EDA.

Ms. Lisa Williams, Bond Counsel for the County, from McGuire Woods, stated that unlike localities, an EDA does not have a debt limit and they serve as a conduit entity. She stated that the only limitation that an EDA will run into is bank qualification, which is done by looking at the locality, EDA, and any other subsidiaries that issue on behalf of the locality. She stated that because the EDA serves as a conduit issuer it does not have any responsibilities for the debt and it does not reflect on the EDA or the locality if that borrower cannot repay their debt. There is no impact on the EDA or the County's credit rating.

Mr. Kennedy asked if the EDA has ever had this issue where they have issued bonds that could not be repaid by the borrower and needed to be refinanced and renegotiated their debt.

Ms. Williams stated that not to her knowledge, but it has happened in other localities with other EDAs.

Mr. Kennedy stated that his concern is whether there any assurances that this will not happen again with this borrower and this development.



Ms. Williams stated that there are no assurances that the plan in place will be 100 percent successful. She stated that with her tonight is Mr. Chris Henderson, CEO of Virginia United Methodist Homes of Williamsburg, and Mr. Robert Westerman, from Hirschler Fleischer, an attorney for the borrower on the bankruptcy side and that they are willing to answer any questions as well. She stated that the team of attorneys and financial advisors believe that the plan that has been put into place will allow the borrower to be successful.

Mr. Kennedy asked if the total amount of debt being written off is in excess of \$16 million.

Mr. Henderson stated that including the initial equity contribution that was put in by United Methodist Homes, the total is approaching \$38 million.

Mr. Kennedy asked who is paying that debt off. He asked if that goes to bank fees and will be passed along to the public at some point.

Mr. Henderson stated no, it will not. It is being forgiven by the loan-issuer and the parent corporation, United Methodist Homes.

Mr. Kennedy stated that in 2001 he voted against this project for multiple reasons, one of them being the funding mechanism. The other reason being that it was a gated community within New Town and it was detached from New Town, which began the spreading out of New Town, taking it away from being a walking community to more of a town. He stated that his concern now is that when people look at James City County, there is a failure here, one that has not happened before. He stated that the perception will be that James City County is not a successful place for businesses. He stated that he continues to have concerns over this project.

Mr. Henderson stated that he understands the concern. He stated that WindsorMeade opened in 2008 and unfortunately many retirement homes nationally that opened about the same time are having similar issues. He stated that WindsorMeade is at 80 percent occupancy. He said that the company has promised the residents that the obligations set forth in the residency agreements, including the refund obligation, are going to be honored 100 percent. He stated that the success and failure of retirement communities is tied very closely to the housing market. However, since the filing of the Chapter 11 Bankruptcy on March 1, 2013, WindsorMeade has sold five new residencies and that is due to the residents believing in the product and the plan of reorganization.

Mr. Kennedy asked how the sale prices have been affected since 2008.

Mr. Henderson stated that Windsor Meade is not selling real estate, but a lifestyle, continuing care, and a refund obligation. He stated that they have reduced entrance fees, due to the decline in the housing market. He stated that the refund obligation is being upheld for the percentage amount that the resident paid when they moved in, not the reduced percentage due to the decline in the market.

Ms. Jones stated that in the staff report the amount listed is not to exceed \$50 million. She stated that it was said earlier that \$38 million was being forgiven, so how did it get to \$50 million as needed to revitalize the project.

Ms. Williams stated that there will be four pieces to the debt restructuring. Three of those pieces will go to exchange the existing bonds and is a large portion of the amount. She stated that then there is a fourth piece, of about \$2 million that will be used to pay fees and provide some working capital.

Mr. Kennedy asked if all of the proffer obligations from the original proposal in 2001 had been met.

Mr. Allen Murphy, Director of Development Management, stated yes, to the best of staff's knowledge that is correct.

Mr. Icenhour asked what happens to the community, what happens to the residents if the Board does not approve this proposal.

Ms. Williams stated that they would have to go to the bankruptcy court and explain that the locality does not want to go through with assisting the debt restructuring. She stated that they would have to figure out another way to restructure the debt.

Mr. Icenhour stated that he assumes that the reason they are pursuing this course of action is because it is the best course for the company, for the residents, and for everyone else involved.

Ms. Williams stated that was correct.

Mr. Henderson stated that it is what is in the best interest of the residents. He stated that the guiding force has been that the residents are fully protected and that the refund obligations be fully honored. He stated that this restructuring allows them to do that.

Mr. Icenhour stated that he appreciates that and after speaking to several of the WindsorMeade residents, that stance has given them a great deal of comfort in this situation. He commended them for their efforts on behalf of the residents.

Mr. Kennedy asked when they became aware of the situation.

Mr. Henderson said that the primary driver was that their Letter of Credit from Bank of America was not going to be extended beyond December 31, 2013. He stated that they received that notification from Bank of America in September of 2012 and at that point they began the process of hiring financial advisors and attorneys to assist with developing a restructuring plan. He stated that obviously that notification from Bank of America came after the development was proposed and approved.

Mr. McGlennon asked if Mr. Seymour and Ms. Williams could explain their reasoning that this is the best course of action for the County to take.

Ms. Williams stated that the County has an interest in assisting businesses to be successful when and if the County is able. She stated that the EDA held a public hearing in March, there have been numerous discussions with the County Attorney, the Economic Development Director, and the EDA so that everyone would know what was involved in this process and with the restructuring.

Mr. McGlennon stated that he believes everyone understands the value of allowing United Methodist Homes of Williamsburg to restructure their debt to satisfy their obligations. He asked that in comparison with other restructuring cases, how likely is success.

Ms. Williams stated that they have worked extensively with the loan holders to make sure that the restructure in place will be successful. She stated there have been a lot of negotiations to make sure that the borrower is not taking on more than they can handle and that they will be successful.

Mr. Icenhour made a motion to approve the amended resolution provided to the Board this evening.

Mr. Bradshaw stated that he is concerned about the perception as well, but more so because what would the perception be if the Board did not approve this. He stated that if the County failed to help a corporate citizen that is providing housing for citizens, what would that say to other businesses that wanted to come into the County to do business. He stated that he believes that would be a perception that would damage the County in the long run.

Mr. Kennedy stated his concern is over the perception of the failure, but that he raised this issue in 2001. He stated that in essence this is a bailout. He stated that his dilemma is should he vote for something now that he voted against in 2001, for the very reason he voted against it in 2001. He stated that he understands the concern over the residents and he is not discounting that. However, an individual that is losing their home due to these economic times, the County is not bailing them out. He stated that he was opposed to this in 2001, one of the reasons being the funding, and he is conflicted about his decision tonight.

Mr. Bradshaw stated that he understands his dilemma; however, he would be concerned continuing to vote against a project every time it comes back to the Board that would further solidify its failure. He stated that once a decision has been made on a project, the future decisions become a different priority. He stated that Mr. Kennedy's decision in 2001 should not be a factor in the decision tonight.

Mr. Icenhour stated that he agrees with Mr. Bradshaw. He stated that the Board is dealing with the difference between what is proposed and what exists. He stated that he probably would have voted against the rezoning of what is now New Town, and Colonial Heritage; however, they exist now and there are residents there that are part of our community. He stated that once the decision was made, the Board then has an obligation to the citizens to help it succeed.

Mr. Kennedy asked if it is being said that this is the only definitive source of funding.

Mr. Icenhour said that it was clearly stated that if the Board does not approve this, then they will have to go back and find an alternative. He stated that it is not their preferred method, and probably will not be as effective, and may not have the same chance of success. He stated that this plan seems to be the best for the company and the residents for a successful outcome.

Ms. Jones stated everyone can agree that everyone cares about the citizens involved and there should be no argument over that. She stated that she would not be supporting this proposal tonight. She stated that she does not feel comfortable with endorsing this plan. She stated that she is sorry for the challenges that the company is going through, like so many other businesses. She stated that James City County would be allowing its name to be put beside the borrowing of \$50 million. She stated that even though it is a pass through, and the County is not obligated, it is still the County name on the line and the name of every citizen. She stated that her preference is that they seek other alternatives for funding and restructuring.

Mr. Kennedy stated that he understands that Bank of America pulled the Letter of Credit back in the fall, yet they still continued to build. He stated that something was setting off warning signs. He stated that it is being said that the economy has been in recovery since 2009; however, this gives him concerns that it is not. As to the point raised by Mr. Bradshaw and Mr. Icenhour, actions in the past by Board members prove that members can stay with their opinions even after a project has been approved. He stated that he agrees with Ms. Jones and will be staying with his previous feelings on the project.

On a roll call vote, the vote was: AYE: Mr. Icenhour, Mr. Bradshaw, Mr. McGlennon, (3). NAY: Mr. Kennedy, Ms. Jones, (2).

## **RESOLUTION**

### **APPROVAL OF PROPOSED FINANCING FOR VIRGINIA UNITED METHODIST HOMES OF**

### **WILLIAMSBURG, INC., THROUGH THE JAMES CITY COUNTY ECONOMIC**

### **DEVELOPMENT AUTHORITY (EDA)**

WHEREAS, the Economic Development Authority of James City County, Virginia (the "Authority") has considered the application of Virginia United Methodist Homes of Williamsburg, Inc., a Virginia non-stock, nonprofit corporation (the "Borrower"), requesting the issuance of the Authority's revenue bonds in an amount not to exceed \$50 million (the "Bonds") to be issued at one time or from time to time to assist the Borrower in 1) refunding the outstanding principal amounts of the Authority's (i) Residential Care Facility Revenue Bonds (Virginia United Methodist Homes of Williamsburg, Inc.), Series 2007A, (ii) Residential Care Facility Revenue Bonds (Virginia United Methodist Homes of Williamsburg, Inc.), Series 2007B, and (iii) Residential Care Facility Revenue Bonds (Virginia United Methodist Homes of Williamsburg, Inc.), Series 2007C (collectively, the "Series 2007 Bonds"), which were issued to finance (a) the costs of the acquisition, construction and equipping of an approximately 460,276-square-foot continuing care retirement community (the "Community"), containing approximately 207 units, consisting of approximately 181 independent living units, 14 assisted living units and 12 healthcare units, all of which are located on an approximately 106-acre tract of land at 3975 WindsorMeade Way, James City County, Virginia, which is at the intersection of Monticello and WindsorMeade Way in James City County, Virginia, and (b) costs related to the issuance of the Series 2007 Bonds, and 2) financing costs related to a debt service reserve fund, costs of issuance, working capital, and other expenses in connection with the issuance of the bonds (collectively, the "Plan of Finance"); and

WHEREAS, the Authority held a public hearing on the Borrower's application on March 14, 2013, as required by Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), and Section 15.2-4906 of the Code of Virginia of 1950, as amended (the "Virginia Code"). Section 147(f) of the Code also provides that the governmental unit having jurisdiction over the issuer of private activity bonds and over the area in which any facility financed with the proceeds of private activity bonds is located must approve the issuance of the bonds; and

WHEREAS, the Authority issues its bonds on behalf of James City County, Virginia (the "County"); the Community is located in the County; and the Board of Supervisors of James City County, Virginia (the "Board") constitutes the highest elected governmental unit of the County; and

WHEREAS, the Authority has recommended that the Board approve the Plan of Finance and the issuance of the Bonds; and

WHEREAS, a copy of the Authority's resolution approving the issuance of the Bonds, subject to the terms to be agreed upon, a certificate of the public hearing and a Fiscal Impact Statement have been filed with the Board.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia:

1. The Board approves the issuance of the Bonds by the Authority for the benefit of the Borrower, as required by Section 147(f) of the Code and Section 15.2-4906 of the Virginia Code to permit the Authority to assist in undertaking the Plan of Finance.

2. The approval of the issuance of the Bonds does not constitute an endorsement to a prospective purchaser of the Bonds of the creditworthiness of the Plan of Finance or the Borrower.
3. This resolution shall take effect immediately upon its adoption.

2. Extending Bond Authority

Mr. John McDonald, Director of Financial and Management Services, addressed the Board giving a summary of the memorandum included in the Agenda Packet.

Mr. Kennedy asked if on the original wording of the referendum item, was the option for the two-year extension mentioned.

Mr. McDonald stated that no, it is not mentioned. He stated that the only reference to a time period is the reference to the Public Finance Act of 1991, which permits an extension if approved by the courts.

Mr. McGlennon stated that no time limit was specifically listed in the referendum question, just the reference to the Public Finance Act.

Mr. McDonald stated that was correct.

Mr. Kennedy asked Mr. Middaugh why this issue would not be considered for a public hearing.

Mr. Middaugh stated that it can be; however the Board is not obligated to do so and there are public comment opportunities this evening.

Mr. Kennedy stated that he voted in favor of this referendum. He stated that he has been a supporter of PDR programs and greenspace acquisitions. He stated that he is concerned about the way these funds are being used. He stated that he is concerned after speaking to a property owner that felt he was strong-armed into selling his property. He stated that he was concerned after the purchase of the Allen property after speaking to staff that felt the property was not in danger of being developed. He stated his concern about property owners who have not had an easy time of dealing with the County and have been tied up in the process for years. He stated that he would not be supporting this resolution this evening. He stated that he is supportive of putting the issue back before the voters, as there has been a considerable change in the economy and in the citizenry of the County in the last seven years.

Ms. Jones stated that she agrees with Mr. Kennedy. She stated that if this is going to happen, then it should go back on the ballot for the voters to decide on. She stated that since it was voted on by referendum, she believes it should have at least been a public hearing tonight. She stated that there is a reason that referendums have expiration dates. It is because economies change, citizenry changes, and priorities change. She stated that the discussion in the Budget Work Session highlighted no new debt for the County. However, this resolution would allow for more debt. She stated that over 40 percent of the land in the County is owned by some form of government, whether it is the County, the State, or the Federal governments. She stated that more and more private lands are being taken off the tax rolls. She stated that the Board keeps hearing from citizens saying that enough is enough and the Board needs to listen.

Mr. Bradshaw stated that the reason it does not show up on the budget is because this resolution only authorizes the authority to borrow, the decisions to borrow still need to be made. He said at that point, the

Board needs to listen to the citizens, the ones who speak at meetings and the ones that speak to the Board members outside of meetings. He stated that he does not believe in foreclosing on opportunities. He stated that denying this would foreclose on the opportunity to borrow later in the future at the best interest rates that can be gotten. He stated that the referendum made no mention of an expiration date, so he does not believe that was an expectation of the citizens.

Mr. Icenhour stated that it was interesting to be reminded that the referendum did not include the expiration date. He stated that Ms. Jones is correct, there is a reason for expiration dates, but there is also a reason for being granted an extension under the law. He stated that this is a preservation of the opportunity to borrow; it is not a guarantee or obligation to borrow. He stated that the Board could go the next two years and not spend a penny of the money. He stated that it is highly unlikely that the Board would use the entire amount available. He stated that the County's debt is projected to go down over the next five years. Population is going up and our revenues are going up; we are heading in the right direction. He stated that he can support this because it gives the Board an option.

Mr. Kennedy stated that there has been very little property coming forward to the Board in the last few years. He stated that many citizens are holding on to their property because they are waiting for the value to go back up.

Mr. McGlennon stated that the process of acquiring property or open spaces is a long, drawn out process. He stated that the option to acquire is still supported by the voters and many have come before the Board stating that they believe the County has not acquired enough land. He stated that this action gives the Board the authority to make decisions about some opportunities to acquire land that may become available. He stated that he believes the acquisition of property that prevents development, and a higher demand for public services, would find support. He stated that voters showed their support in 2007, during the professional surveys done for the Comprehensive Plan and it was evident during the Comprehensive Plan process in 2009.

Mr. Bradshaw made a motion to approve the resolution.

On a roll call vote, the vote was: AYE: Mr. Icenhour, Mr. Bradshaw, Mr. McGlennon (3). NAY: Mr. Kennedy, Ms. Jones, (2).

## **RESOLUTION**

### **EXTENDING BOND AUTHORITY**

WHEREAS, in a special election on November 8, 2005, the day of the general election in that year, the voters of James City County ( the County") approved the issuance of General Obligation bonds in a principal amount not to exceed \$20 million for the purpose of financing a portion of the cost of the acquisition of land and voluntary land conservation agreements that will serve as greenspace for the County and preserve agricultural, forestal, or environmentally sensitive lands in the County; and

WHEREAS, under the authority granted by the voters, the County has issued \$6 million in General Obligation bonds to acquire greenspace and has \$14 million in bond authority remaining; and

WHEREAS, under § 15.2-2611 of the Code of Virginia, bonds authorized by a referendum may not be issued more than eight years after the date of the referendum; however, this eight-year period may, at the request of the governing body of the locality, be extended to up to ten years after the date of the referendum by order of the circuit court for the locality entered before the expiration of the eight-year period.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, declares that it is in the best interests of the County to extend the period during which the bonds may be issued to up to ten years after the date of the Election;

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests the Williamsburg-James City County Circuit Court to enter an order as authorized under § 15.2-2611 of the Code of Virginia extending the period during which the bonds may be issued to a ten-year period ending November 7, 2015.

3. Contract Award – Integrated Tax Revenue Software System – \$650,000

Mr. John McDonald, Director of Financial and Management Services, addressed the Board, giving a summary of the memorandum included in the Agenda Packet.

Mr. Icenhour asked if any analysis has been done on the efficiencies that this system will grant to determine the return on the investment.

Mr. McDonald stated that the system the County has now is problematic and requires considerable manual intervention by staff. Also, the system is not a transparent system for the taxpayers themselves, they cannot access their accounts, see their payments, or their assessments. He stated that perhaps hearing from one of the Constitutional Officers that deal with this system currently might be more helpful.

Ms. Ann Davis, Treasurer for James City County, addressed the Board stating that the Treasurer's Office has a cashing system, much like a business, but after that point, transactions are reduced to manual spreadsheets. She stated that as the County grows, if this system is not implemented, she will be back before the Board asking for more staff to handle the manual transactions. She stated that this system will accommodate the growth of the County. She stated that citizens are demanding more technology within the County, and they want access to their accounts online with the ability to pay their bills online.

Mr. Kennedy asked if this system will allow for the collection of sales tax, meals tax, etc., from businesses within the County.

Ms. Davis stated that a business can file its meal tax online and the system will provide support in the calculation of the tax due and then allow the payment to be remitted electronically. She stated that this ability will not come right away; it will be toward the end of the conversion.

Mr. Kennedy asked if the system would accommodate checks.

Ms. Davis stated yes; it would allow the acceptance of e-checks, as well as credit and debit cards. She stated that in a future budget, the Board could discuss adding a fee to debit and credit card transactions to cover some of the merchant fees imposed by VISA and MasterCard.

Mr. Kennedy asked if the system would link to the Commissioner of the Revenue as well. He stated that a business files paperwork to the Treasurer's Office as well as the Commissioner of the Revenue. He asked if this system would eliminate all that paper.

Ms. Davis stated yes.

Mr. Richard Bradshaw, Commissioner of the Revenue, addressed the Board stating that this system would make the Department of Motor Vehicles (DMV) transactions, which go through his office, much more efficient. He stated that the system would allow for email reminders to businesses of payments due. He stated that soon, hopefully, the business license renewal can come electronically.

Mr. Icenhour made a motion to approve the resolution.

On a roll call vote, the vote was: AYE: Mr. Icenhour, Mr. Bradshaw, Mr. Kennedy, Ms. Jones, Mr. McGlennon (5). NAY: (0).

### **RESOLUTION**

#### **CONTRACT AWARD – INTEGRATED TAX REVENUE SOFTWARE SYSTEM – \$650,000**

WHEREAS, a Request for Proposals (RFP) for an Integrated Tax Revenue Software System was publicly advertised and staff reviewed proposals from three firms interested in providing the solution; and

WHEREAS, funds are available in the FY 2013 Capital Improvements Program (CIP) budget for the purchase of an Integrated Tax Revenue Software System; and

WHEREAS, upon evaluating the proposals, staff determined that PCI, LLC was the most fully qualified and submitted the solution that best suited the County's needs as presented in the RFPs and negotiated a price of \$650,000 with PCI, LLC for an Integrated Tax Revenue Software System.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute a contract with PCI, LLC for an Integrated Tax Revenue Software System in the amount of \$650,000.

#### **4. Contract Award – Longhill Road Corridor Study – \$229,000**

Mr. Jason Purse, Zoning Administrator, addressed the Board giving a summary of the memorandum included in the Agenda Packet.

Mr. Icenhour stated that the number one project the County has right now is the expansion of Longhill Road from Route 199 to Olde Towne Road. He asked if this portion would get rolled into the whole study.

Mr. Purse stated yes.

Mr. Icenhour stated that the money that has been set aside for the Longhill project is about \$1.5 million, but cost estimates are about \$11-14 million, so it will be a while before the County has the money to complete the project. He asked if the study will give the County a realistic assessment of the cost of completing just that one section.



Mr. Purse stated yes; the study will cover the cost and projections for all of the projects along the corridor.

Mr. Icenhour made a motion to approve the resolution.

On a roll call vote, the vote was: AYE: Mr. Icenhour, Mr. Bradshaw, Mr. Kennedy, Ms. Jones, Mr. McGlennon (5). NAY: (0).

## **RESOLUTION**

### **CONTRACT AWARD - LONGHILL ROAD CORRIDOR STUDY - \$229,900**

WHEREAS, a Request for Proposals (RFP) for Consultant Services to conduct a study of the Longhill Road corridor was publicly advertised and staff reviewed proposals from five firms interested in performing the work; and

WHEREAS, upon evaluating the proposals, staff determined that Kimley-Horn and Associates was the most fully qualified and submitted the proposal that best suited the County's needs as presented in the RFP.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby awards the \$229,900 contract for Consultant Services for the Longhill Road Corridor Study.

### **K. PUBLIC COMMENT**

1. Mr. Joseph Swanenburg, 3026 The Point Drive, addressed the Board in regard to Sheriff Deeds' statement being removed from the County website. He stated that the statement should be reinstated or an apology be issued.

2. Mr. Chris Henderson, 101 Keystone, addressed the Board in opposition to the extension of the bond authority. He stated that the decision to extend the bond authority will have an impact on the County's credit rating.

3. Ms. Sue Sadler, 9929 Mountain Berry Court, addressed the Board in opposition to the extension of the bond authority.

4. Mr. Keith Sadler, 9929 Mountain Berry Court, addressed the Board in regard to the 2nd Amendment rights of citizens and upholding the United States Constitution.

5. Ms. Landra Skelly, 6572 Wiltshire Road, addressed the Board in opposition to the extension of the bond authority.

6. Ms. Marjorie Ponziani, 4825 Bristol Circle, addressed the Board in opposition to the extension of the bond authority.

7. Mr. Ed Oyer, 139 Indian Circle, addressed the Board in regard to property values that are still declining in the County and the real estate assessments.

Ms. Jones requested a Point of Order, stating that after a Public Hearing has been closed, citizens are allowed speak to the case at the second public comment section. She stated that is how it has been done in years past. She stated that citizens need to know that they are free to send comments to the Board about the Budget up until the time of the vote.

Mr. McGlennon stated of course; however, the point is that during a meeting where a Public Hearing is held there is the opportunity to speak to that particular case. He stated that otherwise the Board would hear the same comments three different times during the course of the meeting. He stated that it is an attempt to focus the comments during the Public Hearing to that particular case before the Board. He said that at the next meeting citizens are welcome to utilize the Public Comment section for comments on the Budget.

#### **L. REPORTS OF THE COUNTY ADMINISTRATOR**

Mr. Middaugh stated that the JCSEA is replacing approximately 2,600 linear feet of the existing 12-inch water main along Jamestown Road. Periodic lane closures will occur during the project.

Ms. Jones asked about the Prisoners of War (POW) memorial that is located at the intersection of Neck-O-Land and Jamestown Roads.

Mr. Middaugh stated that the Virginia Department of Transportation (VDOT) has informed the County that it will need to obtain a permit for the memorial to go back up at the intersection after the repairs.

Mr. McGlennon asked if it is because there are VDOT easements on the property.

Mr. Middaugh stated it is in the VDOT right-of-way. He stated that he would keep the Board informed of what VDOT says about the matter.

#### **M. BOARD REQUESTS AND DIRECTIVES**

Mr. Icenhour made a motion to appoint Mr. Oscar Liggin and Mr. Christian Silverio to the Social Services Advisory Board.

On a roll call vote, the vote was: AYE: Mr. Icenhour, Mr. Bradshaw, Mr. Kennedy, Ms. Jones, Mr. McGlennon (5). NAY: (0).

Mr. Kennedy thanked Mr. Middaugh, staff, Mr. Rossi Carroll, and VDOT for taking care of the issue in front of the Lutheran Church in Norge. He also asked that VDOT begin clearing the ditches on Route 60 so that water can drain effectively.

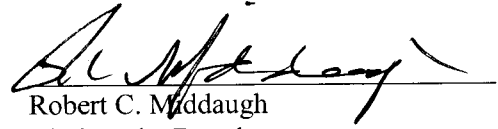
Mr. McGlennon stated that he attended the Grand Opening of Michael's in Settlers Market. He stated that the County lost one of its long time teachers, Ms. Gail Henson, and passed along his condolences. He stated that in regards to Mr. Oyer's comments about assessments in his neighborhood, he will be sitting down with the Real Estate Office to get clarification and a better understanding of the assessments in that area. He also stated that in keeping with the discussion and comments this evening, it is important to note that the County will be retiring \$22 million in debt this year, and that at the end of five years the cumulative debt is projected to be reduced by \$30 million and that is with the addition of a new School Board office, new General Services building, and bringing James Blair Middle School back online as a functioning school. He stated that it is a clear indication that fiscal responsibility is important to the County.

**N. ADJOURNMENT** – until 4 p.m. on April 17, 2013, for the Budget Work Session.

Mr. Icenhour made a motion to adjourn.

On a roll call vote, the vote was: AYE: Mr. Icenhour, Mr. Bradshaw, Mr. Kennedy, Ms. Jones, Mr. McGlennon (5). NAY: (0).

At 9:56 p.m., Mr. McGlennon adjourned the Board.



Robert C. Middaugh  
Clerk to the Board

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